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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,608	06/25/2003	Edoardo Pio Tusacciu	2520-1024	2424
466	7590	02/24/2004		
YOUNG & THOMPSON			EXAMINER	
745 SOUTH 23RD STREET 2ND FLOOR			CEGIELNIK, URSZULA M	
ARLINGTON, VA 22202				
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/602,608	TUSACCIU, EDOARDO PIO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Urszula M Cegielnik	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 and 23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the octagonal cross-section must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 9, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 9, and 19 lack sufficient antecedent bases for the following limitations in these claims. Claim 4 recites in line 3, "the length of the diagonal of the square". Claim 9 recites the limitation ""the main dimensions of said ferromagnetic element". Claim 19 recites the limitation "the bar element" in the last line of the claim.

Claim 19, in line 2-3, recites "said first bar elements and/or said second bar elements have an outer cover". It is not clear if applicant intends to claim first bar elements having an outer cover, second bar elements having an outer cover, or both

first and second bar elements having an outer cover.

The above are intended as examples only. Applicant is requested to thoroughly review the claims and make any necessary corrections thereto wherever appropriate but not specifically pointed out.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Yonkers.

Yonkers discloses a set of elements comprising a plurality of first magnetic bar elements having a first length (35,21), a plurality of ferromagnetic elements (20), and a plurality of second magnetic bar elements having a second length (40); the ferromagnetic elements (20) are spherical and made of steel (col. 3, lines 64-66); the first bar elements (35,21) and/or the second bar elements (40) have an outer cover (30,41), the cover does not cover the basis of the bar element (col. 5, lines 5-7) the second length of the second bar elements (40) corresponds to the length of the diagonal of the square comprised of four first bar elements (21) as sides, coupled each order in correspondence of the corners of the square by four electromagnetic elements (20) (see Figures 4 and 13); the ferromagnetic elements are used both as vertex of the complex

figures and as coupling elements for the second bar elements provided along the diagonals (see Figures 4 and 13).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-16, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers.

Yonkers discloses the claimed invention except for the second bar elements corresponding to a particular fractional measurement of length of the diagonal of the square and the second ferromagnetic elements having different dimensions from the first ferromagnetic elements.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the second bar element corresponding to a particular fractional measurement of the length of the diagonal of the square, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Similarly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the second ferromagnetic elements having different dimensions from the first ferromagnetic elements, since it has been held that

where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkers in view of Justice

Yonkers discloses the claimed invention except for the second bar elements corresponding to a particular fractional measurement of length of the diagonal of the square and the second ferromagnetic elements having different dimensions from the first ferromagnetic elements.

Justice discloses a toy construction set having bar elements having an octagonal cross-section (see Figure 7) and bar elements having an outer cover (10) made of plastic (col. 3, lines 1-2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide bar elements having an octagonal cross-section as taught by Justice, since Justice states at col. 4, lines 21-23, that such a modification would permit any assembly and insures that the resulting structures are stable, yet capable of being easily disassembled.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an outer covering made of plastic as taught by Justice, since such a modification would protect the bar element against erosion.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 5:30AM - 2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

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Assistant Examiner  
Art Unit 3712



DERRIS H. BANKS  
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